IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 940 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE KSHITIJ R.VYAS
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JITUBHAI PUNJABHAI PATEL

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

1. Special Civil Application No. 940 of 2003
MR GM AMIN for Petitioner No. 1-2,3-13
MR DJ BHATT for Petitioner No. 2/1
MR RC KODEKAR, AGP for Respondent No. 1

CORAM : MR.JUSTICE KSHITIJ R.VYAS
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 21/04/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE KSHITIJ R.VYAS)

Rule. Mr. Kodekar, Ld. AGP waives service of rule on behalf of the respondent.

2. With the consent of the learned advocates for the parties, the petition is taken up for final hearing today.

3. The petitioners have in this petition challenged the order dated 8/1/2003 annexed at Annexure-A to the petition passed by the Special Land Acquisition Officer, the respondent herein, dismissing the application filed by the petitioners u/S. 28-A of the Land Acquisition Act (hereinafter referred to as 'the Act') on the ground that the application preferred by the petitioners is time barred.

4. There is no dispute as regards the fact that the petitioners have filed application u/S. 28-A of the Act on 22/4/1998 by Regd. A.D. Post. The District Court delivered judgment on 29/12/1997. It is also not in dispute that the petitioners applied for the certified copy of award on 13/2/1998 and the same was ready for delivery on 11/7/1998 and the petitioners filed the same before the respondent on the same day. Section 28-A provides for re-determination of the amount of compensation on the basis of the award of the Court. Proviso to subsection (1) of section 28-A provides that in computing the period of three months within which an application to the Collector is required to be made under this sub-section, the day on which the award was pronounced and time required for obtaining copy of the award is to be excluded. The Reference Court passed the award on 29/12/1997. Therefore, the limitation began to run from that date. The proviso to section 28-A (1) provides for obtaining certified copy of the award and decree and the time taken for preparing certified copy of the award and decree is required to be excluded in computing the period of three months. Thus, the time between 13/2/1998 i.e. the date of the application for obtaining certified copy and 11/7/1998 i.e. the date on which the copy was made available is required to be excluded. Calculating the said period, it is clear that the application preferred by the petitioners before the respondent was within time.

5. In this view of the matter, the impugned order dated 8/1/2003 passed by the respondent is invalid and

illegal. We accordingly quash and set aside the said order. The respondent is directed to entertain the application of the petitioners and re-determine the compensation u/S. 28-A of the Act and pass appropriate award within a period of three months from the date of receipt of the writ of this order. The respondent is also directed to pay the cost of the petition, which is quantified at Rs.1,000/- (Rupees one thousand only). Rule made absolute accordingly.

[KSHITIJ R. VYAS, J.]

[AKSHAY H. MEHTA, J.]

* Pansala.